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By _____, Deputy
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. DEPARTMENT OF GENERAL SERVICES, STATE OF CALFORNIA Defendant,	No. **COMPLAINT FOR PRELIMINARY AND PERMANENT INJUNCTION, CIVIL PENALTIES AND OTHER RELIEF** (Health & Safety Code, Div.20, Chapters 6.5, 6.67, 6.7, and 6.95) *Exempt from fees per Government Code §6103*

Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, brings this law enforcement action to protect public health and the environment from harm due to releases of hazardous substances from leaking Underground Storage Tanks (UST's), including harm to groundwater and surface waters and against harm from indoor air impacts. Plaintiff also brings this action to protect public health and the environment from harm due to the

unlawful mismanagement of hazardous waste and hazardous materials. Plaintiff alleges the following based on information and belief.

PLAINTIFF

1. The People, by and through Thien Ho, as the District Attorney for the County of Sacramento and Pamela Y. Price as the District Attorney for the County of Alameda, brings this action in the public interest for the purpose of protecting the public health, safety and welfare.

2. Pursuant to California Health and Safety Code section 25182, a District Attorney may bring a civil action in the name of the People of the State of California for civil penalties and injunctive relief based on violations of Health and Safety Code, Division 20, Chapter 6.5, Hazardous Waste Control Law.

3. Pursuant to California Health and Safety Code sections 25299, 25299.01 and 25299.02, the People may bring a civil action for civil penalties and an injunction based on violations of the State's statutory scheme entitled "Underground Storage of Hazardous Substances," relating to underground storage tanks containing fuel, which is set forth in Chapter 6.7 of Division 20 of the California Health and Safety Code, and pursuant to which implementing regulations have been issued and set forth in California Code of Regulations (CCR), Title 23, Division 3, Chapter 16.

4. Pursuant to California Health and Safety Code sections 25515, 25515.5, 25515.6, and 25515.7, a District Attorney may bring an action in the name of the People of the State of California for civil penalties and injunctive relief for violations of Health and Safety Code, Division 20, Chapter 6.95, Hazardous Materials.

5. Pursuant to California Health and Safety Code section 25270.12, a District Attorney may bring an action for civil penalties and injunctive relief for violations of Health and Safety Code, Division 20, Chapter 6.67, Aboveground Petroleum Storage.

6. Plaintiff brings this action without prejudice to any other action or claim that Plaintiff may have based on separate, independent, and unrelated violations arising out of matters or allegations that are not set forth in this complaint.

JURISDICTION AND VENUE

7. The alleged violations of the law, hereinafter described, have been carried out within Sacramento County and elsewhere in the State of California.

8. This court has jurisdiction pursuant to Article 6, section 10 of the California Constitution, sections 393 and 395.5 of the California Code of Civil Procedure and California Health and Safety Code sections 25183, 25270.12, 25299.01 and 25299.02.

9. Venue is proper in Sacramento County pursuant to Health and Safety Code sections 25183 and 25299.03 and Code of Civil Procedure section 393, subdivision (a) because a cause of action, or some part of a cause of action, arose in Sacramento County.

DEFENDANT

10. Defendant DEPARTMENT OF GENERAL SERVICES, STATE OF CALFORNIA (hereinafter, Defendant or DEPARTMENT OF GENERAL SERVICES) is an agency of the State of California.

11. Defendant handles hazardous materials in the County of Sacramento and elsewhere in the State of California. Defendant is a "business" as defined in Health and Safety Code section 25501(c).

12. Defendant generates and stores hazardous waste in the County of Sacramento and elsewhere in the State of California. Defendant is a "person" as defined in Health and Safety Code section 25118.

13. Defendant owns and/or operates underground storage tanks in the County of Sacramento and elsewhere in the State of California. Defendant is an "owner," and an "operator" of "Underground Storage Tanks" (UST's) as defined in Health and Safety Code section 25281, subdivisions (j) and (k) and (y).

14. Defendant owns and/or operates aboveground petroleum storage tanks in the County of Sacramento and elsewhere in the State of California. Defendant is an "owner," and an "operator" of aboveground petroleum storage tanks as defined in Health and Safety Code section 25270.2.

15. At all times relevant to the facts alleged herein, Defendant was legally

responsible for compliance with the provisions of the Health and Safety Code, including Chapters 6.5, 6.67, 6.7, and 6.95 of Division 20, and corresponding implementing regulations, at Defendant's facilities in California.

16. Whenever in this Complaint reference is made to any act of Defendant, such allegation shall be deemed to mean that Defendant and its officers, directors, members, managers, agents, employees, or representatives did or authorized acts while actively engaged in the management, direction, or control of the affairs of Defendant and while acting within the course and scope of their duties. When reference is made herein to any act or omission of Defendant, such allegation shall include the act or omission of the officers, directors, members, managers, agents, employees, or representatives of Defendant, engaged in said acts or omissions.

TOLLING OF STATUTES OF LIMITATIONS

17. Plaintiff has entered into a tolling agreement with Defendant to toll any applicable statute of limitations. As a result of those agreements, the period of time from May 1, 2023, to the time of filing this Complaint will not be included in computing the time limits created by any statutory limitation period for pursuing causes of action against Defendant. Additionally, on April 6, 2020, the Judicial Council of California adopted Emergency Rule No. 9 in response to COVID-19, which tolled statutes of limitations for civil causes of action until 90 days after Governor Gavin Newsom lifted the current state of emergency. The Judicial Council of California subsequently amended Emergency Rule 9, effective May 29, 2020, providing that: "Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020."

STATUTORY BACKGROUND

Hazardous Waste Control Law

18. The Resource Conservation and Recovery Act (RCRA) at 42 U.S.C. § 6901 et seq.) is the federal law that controls hazardous waste from "cradle to grave." This includes

the generation, transportation, treatment, storage and disposal of hazardous waste. In almost all states, including California, federal authority to implement RCRA has been delegated to the state. To obtain delegation, the state must have state laws and regulations that, at a minimum, mirror federal law. The State of California has a comprehensive statutory and regulatory framework governing hazardous waste. This framework, contained in Chapter 6.5 of Division 20 of the Health and Safety Code section 25100 et seq. and its implementing regulations, at Title 22 of the California Code of Regulations section 66260.1 et seq., mandates a cradle to grave system known as the Hazardous Waste Control Law (HWCL) which regulates the generation, registration, tracking, storage, treatment, and disposal of hazardous waste to provide for the protection of the public and the environment from the potential risks posed by hazardous waste.

19. The federal Emergency Planning and Community Right-to-Know Act (EPCRA), at 42 U.S.C. §11001 et seq.) was created to help communities plan for chemical emergencies. EPCRA requires entities to report on the storage, use and releases of hazardous substances to federal, state, and local governments. This law requires state and local governments to use this information to prepare for and protect their communities from potential risks. To implement federal law, the State of California enacted a comprehensive statutory and regulatory framework for the notification, handling, training and spill/release reporting of hazardous materials. This is contained in Chapter 6.95 of the Health and Safety Code section 25500 et seq. ("Chapter 6.95") and its implementing regulations, known as the Hazardous Materials Release Response Plans and Inventory Law. In order to inform the public and to assist emergency responders, Chapter 6.95 mandates that basic information on the location, type, quantity, and the health risks of hazardous materials handled, used, stored, or disposed of in the State, which could be accidentally released into the environment be made available to firefighters and regulatory agencies. Chapter 6.95 requires an owner or operator of a facility submit a Hazardous Materials Business Plan if the facility handles a hazardous material in an amount equal to or greater than 55 gallons (of liquids), 500 pounds (of solids), or 200 cubic feet (of compressed gas). A Hazardous

Material Business Plan (HMBP) contains:

• Inventory of hazardous materials at a facility

• Emergency response plans and procedures in the event of a reportable release or threatened release of a hazardous material

• Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material

• A site map that includes storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment. Health and Safety Code, section 25505.

20. The California Legislature has found that underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of groundwater and underlying aquifers and may pose other dangers to public health and the environment. (Health and Safety Code section 25280). The Underground Storage Tank Law was enacted at Health and Safety Code, Division 20, Chapter 6.7 for the purpose of preventing contamination from, and improper storage of, hazardous substances stored underground. It was the intent of the Legislature to establish orderly procedures that will ensure that newly constructed underground storage tanks meet appropriate standards and that existing tanks be properly maintained, inspected, tested, and upgraded so that the health, property, and resources of the People of the State will be protected. Health and Safety Code, section 25280.

21. California's Underground Storage Tank (UST) program is overseen by the California State Water Resources Control Board. Inspections and permitting are conducted by local Certified Unified Program Agencies (CUPAs). (Health and Safety Code, section 25283.) The CUPA for Sacramento County is the Sacramento Environmental Management Department. The CUPA for Oakland is the Alameda County Department of Environmental Health.

22. No person may own or operate a UST unless a permit for its operation has

been issued by the local CUPA. Health and Safety Code, sections 25284(a)(1) and 25284(c).

23. A designated UST operator is a qualified individual identified by a UST owner or operator to have the responsibility to train facility employees, perform visual inspections of UST systems, and review the UST system's testing, inspection, and maintenance records in accordance with California Regulations. 23 CCR 2611, 2715(c) and 2716 (23 CCR 2611, 2715(c) and 2716.

24. The UST owner and operator must identify at least one Designated Operator for each UST facility owned or operated. 23 CCR 2715(a).

25. The UST owner and operator must ensure that there is at least one employee present during operating hours who has been trained in the proper operation and maintenance of the UST system by the facility's Designated Operator. 23 CCR 2715(f)(2).

26. The UST owner and operator must ensure that the qualified Designated Operator performs inspections of the facility's UST systems every month. During each inspection, the Designated Operator must review the monthly alarm history report or log and confirm that each alarm condition has been responded to appropriately and documented. 23 CCR 2715(c).

27. A copy of the Designated Operator's visual inspection reports for the most recent 36 months must be maintained and kept onsite, or if approved by the local agency, off-site at a readily accessible location (prior to October 1, 2018, reports were required to be maintained for 12 months) . A copy of the alarm history report or log, along with documentation describing action taken in response to any alarm, must be attached to each inspection report. 23 CCR 2716(b)(2).

28. Within 30 calendar days of receiving an inspection report from the UPA, the UST owner and operator must implement any corrections specified in the inspection report and comply with the permit conditions. Corrective action must include all of the recommendations made by the UPA. (Cal. Code Regs., title 23, section 2712(f)).

29. All UST system leak detection equipment must be tested and certified every

12 months. (Cal. Code Regs., title 23, section 2638(a).) The UST owner/operator must submit a copy of the Monitoring System Certification form and any required attachments to the UPA within 30 days of the equipment testing date. 23 CCR 2638(d).

30. Civil penalties set forth in Health and Safety Code section 25299, subdivision (a) and (b), state that a UST owners and operators are liable for a minimum penalty of five hundred dollars and a maximum penalty of five thousand dollars for each day of violation of the rules, regulations, standards, or requirements for each underground storage tank.

31. Health and Safety Code Chapter 6.67, sections 25270.2 – 25270.13, is known as the Aboveground Storage of Petroleum Act (APSA). This Act regulates tank facilities with an aggregate storage capacity of 1,320 gallons or more of petroleum in aboveground storage containers. Under Health and Safety Code section 25270.4.5(a), APSA requires the owner or operator of a subject tank facility to prepare a Spill Prevention Control and Countermeasure Plan to prevent petroleum releases.

32. Health and Safety Code section 25270.12. (a) provides that any owner or operator of a tank facility who fails to prepare a spill prevention control and countermeasure plan in or who otherwise fails to comply with the requirements of chapter 6.67 is subject to a civil penalty of not more than five thousand dollars for each day on which the violation continues.

GENERAL ALLEGATIONS

33. Defendant has engaged in actions and omissions involving the operation and maintenance of UST's at Defendant's facilities in California in violation of Health and Safety Code, Division 20, Chapter 6.7, including but not limited to those set forth below.

Underground Storage Tanks in Sacramento County

34. At all relevant times alleged herein, Defendant owned, operated, managed, and/or controlled UST's including at the following locations in Sacramento County:

34A. The Department of General Services building, 416 9th Street, Sacramento, California 95814, (UST permit number FA0008299);

34B. The California Energy Commission building, 1516 9th Street, Sacramento, California 95814, (UST permit number FA0008300);

34C. The State Capitol Building #001, 10th Street/Capitol Mall, Sacramento, California 95814, (UST permit number FA0008073); Defendant was the owner but not the operator of this UST;

34D. The Department of Social Services, OB Buildings 8 & 9, 744 P Street, Sacramento, California 95814 (UST permit number FA0009899);

34E. The Paul Bonderson Building, 901 P St., Sacramento, California 95814, (UST permit number FA0009900).

34F. The Department of Justice Building, 4949 Broadway, Sacramento, California (UST permit number 0010584).

35. **Defendant has an extensive history of underground storage tank violations in Sacramento County, including the following violations.**

36. In 2008, the DEPARTMENT OF GENERAL SERVICES signed a Stipulation and Order and paid $34,000 for an Administrative Enforcement Order in case 08-FA0008299 issued May 7, 2008, admitting the following violations at **1416 9th Street, Sacramento**:

- 23 CCR 2630 (d) Failure to maintain monitoring equipment such that the equipment is capable of detecting a leak at the earliest possible opportunity.
- 23 CCR 2637 (a) 2637 Failure to conduct secondary containment testing every 36 months.
- Failure to submit "return to compliance" documentation as required in the Notice to Comply issued January 8, 2008. Health and Safety Code section 25187.8 (b).

37. On July 10, 2008, the DEPARTMENT OF GENERAL SERVICES signed a Stipulation and Order and paid $14,000 for an Administrative Enforcement Order admitting UST violations at the **State of Library and Courts Building in Sacramento County**.

39. On July 10, 2008, the DEPARTMENT OF GENERAL SERVICES signed a

Stipulation and Order and paid $36,000 for an Administrative Enforcement Order admitting UST violations in Sacramento County.

40. On February 19, 2009, EMD issued an Administrative Enforcement Order to the DEPARTMENT OF GENERAL SERVICES for the USTs located at **714 P Street, Sacramento,** for following violations:

- Failure to conduct secondary containment testing every three years (23 CCR Section 2637a)).
- Violation of Health and Safety Code section 25299, which requires compliance with the applicable requirements and regulations.

41. The DEPARTMENT OF GENERAL SERVICES signed a Stipulation and Order in case FA#-0009899 on March 23, 2009, admitting violations and paid an administrative penalty of $5,000.

42. On November 15, 2012, an inspector from the Sacramento County Environmental Management Department conducted an inspection on Defendant's underground storage tanks located at 714 P Street. The facility was unable to provide the required documentation because the Facility Manager was on vacation and the paperwork needed was locked in his office. During the monitoring certification the inspector informed the Designated Operator that the last secondary containment test results on file were received January 30, 2009, making the secondary containment test overdue. Documentation of a 2010 secondary containment test was never produced.

43. On December 20, 2012, a secondary containment test was conducted on Defendant's underground storage tanks located at 714 P Street, approximately 11 months overdue. The regulations require the owner to submit the test report to the local agency within 30 days from the date of test.

44. On December 21, 2012, an inspector from the Sacramento County Environmental Management Department conducted an inspection on Defendant's underground storage tanks located at 744 P Street (new address, same facility as 714 P St.) and issued a Notice to Comply for the following violations.

- No records available for review showing facility employees have been trained in proper operation and maintenance of the UST system with an annual refresher component (22 CCR Section 2715). (Repeat violation from January 8, 2008, and November 30, 2010, inspections)
- Failure to have documentation for a current secondary containment test at time of inspection. A complete secondary containment test must be performed every three years with results sent to EMD within 30 days of completion (23 CCR Section 2637). (Repeat violation from January 30, 2009, inspection)

The Facility Manager informed the inspector that the secondary containment test was performed on December 20, 2012. The secondary containment test results were not available during the inspection on this date. The test results were received on February 2, 2013, (past the required 30 days).

Civil Court Order in 2014 based on UST violations in Sacramento

45. The District Attorney of Sacramento County brought a prior civil case against Defendant for violations of underground storage tank laws. In December 2014, a final judgment was entered in Sacramento Court Case Number 34-2014- 00172360 (Prior Case). A copy of the Complaint is attached as Exhibit A, and a copy of Final Judgment is attached as Exhibit B.

46. The Judgment in the Prior Case included an injunction, the terms of which included obeying all Health and Safety Code laws and regulations regarding USTs.

Violations at Issue Herein, Sacramento County

47. On November 7, 2018, an inspector conducted an inspection at Defendant's facility at **1416 9th Street, Sacramento,** and cited a violation of failure to comply with overfill prevention equipment requirements.

48. On January 24, 2020, an inspector conducted an inspection at Defendant's facility at 1416 9th Street, Sacramento, and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons. 23 CCR sections 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), 2712(b)(1)(F), and Health and Safety Code section 25284.2.

49. On January 14, 2021, an inspector conducted an inspection at Defendant's facility at 1416 9th Street, Sacramento and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to maintain or submit adequate documentation as specified in 23 CCR sections 2637(e), 2637(f), 2715(a) and 2716(a)-(e).

50. On February 28, 2022, an inspector conducted an inspection at Defendant's facility at 1416 9th Street, Sacramento and cited the following violations:

A. Failure to have a properly qualified service technician test leak detection equipment as required every 12 months (vapor, pressure, hydrostatic system, sensors, line-leak detectors, automatic tank gauge, etc.). 23 CCR 2638(a) & (b), 2641(j), and 2715 (f).

B. Failure to submit a copy of the Monitoring System Certification form and any required attachments to the UPA within 30 days of the equipment testing date. 23 CCR 2638(d).

C. Failure to submit a copy of the spill containment test results on the Spill Container Testing Report Form to the CUPA within 30 days after the test. 23 CCR 2637.1(d), and 2637.1(e).

D. Failure to submit a copy of the overfill prevention equipment inspection results on the Overfill Prevention Equipment Inspection Report Form to the CUPA within 30 days after the inspection. 23 CCR 16 2637.2(d), 2637.2(e), 2665(a), and

2665(b).

E. Failure to have current UST Monitoring Plan readily accessible at the facility. 23 CCR 2712(i).

F. Failure to submit the Underground Storage Tank Statement of Understanding and Compliance Form. 23 CCR 2715(a)(1)(A), 2715(a)(2).

51. On November 7, 2018, an EMD inspector conducted an inspection of Defendant's facility at 1516 9th Street (Energy Commission Building), Sacramento, and cited the violation: Failure to comply with overfill prevention equipment requirements.

52. On January 21, 2020, an inspector conducted an inspection for Defendant's facility at 1516 9th Street, Sacramento and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons. 23 CCR sections 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), and 2712(b)(1)(F); and H&SC section 25284.2.

C. Failure to complete designated operator monthly inspection reports. 23 CCR sections 2716(a) through (e).

53. On January 8, 2021, an inspector conducted an inspection report for Defendant's facility at 1516 9th Street, Sacramento and cited the following violations:

A. Failure to conduct the secondary containment testing within 36 months of the last test. 23 CCR sections 2637(a)-(d), and 2712(b)(1)(F)

B. Failure to obtain a valid permit to operate from the UPA due to unpaid permit fees. 23 CCR section 2711(d); Health and Safety Code section 25284.

54. On January 5, 2022, an EMD inspector completed a UST inspection report for Defendant's facility at 1516 9th Street, Sacramento. The following violations were cited:

A. Failure to submit the designated UST operator form to CERS (online reporting) within 30 days of a change. 23 CCR 2715(a)(1)(B) and 2715(a)(3).

B. The overfill prevention equipment test was performed June 2021 and copies of the test results indicated that the flapper part of the drop tube failed to restrict flow and was degraded to the point where the technician/tester failed the drop tube. This had been notated multiple times. 23 CCR 2635(c)(1), 2635(d), 2637.2(a) 2637.2(b), 2637.2(c), 2665, and 2712(b)(1)(G).

C. Failure to submit a copy of the secondary containment test results on the Secondary Containment Testing report Form to the UPA within 30 days after the test. 23 CCR 2637(e), and 2637(f).

D. Failure to submit a copy of the overfill prevention equipment inspection results on the Overfill Prevention Equipment Inspection Report Form to the CUPA within 30 days after the inspection. 23 CCR 2637.2(d), 2637.2(e), 2665(a), and 2665(b).

55. On January 24, 2020, an EMD inspector conducted an inspection at Defendant's facility at **751 N Street (EDD/Solar Building #013), Sacramento**, and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons. 23 CCR sections 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), and 2712(b)(1)(F); and Health and Safety Code section 25284.2.

56. In 2020, the Annual Monitoring Certification for 751 N Street, Sacramento was completed four months after the due date.

57. On January 14, 2021, an inspector conducted an inspection at Defendant's facility at 751 N Street, Sacramento, and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to submit copies of the Secondary Containment Test results to the local CUPA. 23 CCR sections 2637(e), and 2637(f).

C. Failure to update the UST Operator Identification Form page within 30 days of a change. 23 CCR 2715(a)(1)(B), and 2715(a)(3).

58. On February 28, 2022, an inspector conducted an inspection at Defendant's facility at 751 N Street, Sacramento, and cited the following violations:

A. Failure to have a properly qualified service technician test leak detection equipment as required every 12 months (vapor, pressure, hydrostatic system, sensors, line-leak detectors, automatic tank gauge, etc.). 23 CCR 2638(a) & (b), 2641(j), and 2715 (f).

B. Failure to submit the Designated Underground Storage Tank Operator (DO) Identification Form within 30 days of installing a UST system within 30 days of a change in DO. 23 CCR 2715(a)(1)(B) and 2715(a)(3).

C. Failure to submit the Monitoring System Certification Form to the CUPA within 30 days of completion of the test. 23 CCR 2638(c), and 2638(d).

D. Failure to submit a copy of the spill containment test results on the Spill Container Testing Report Form to the CUPA within 30 days after the test. 23 CCR 2637.1(d), and 2637.1(e).

E. Failure to submit a copy of the overfill prevention equipment inspection results on the Overfill Prevention Equipment Inspection Report Form to the CUPA within 30 days after the inspection. 23 CCR 2637.2(d), 2637.2(e), 2665(a), and 2665(b).

F. Failure to have current UST Monitoring Plan readily accessible at the facility. 23 CCR 16 2712(i).

G. Failure to submit the Underground Storage Tank Statement of Understanding and Compliance Form. 23 CCR 2715(a)(1)(A), and 2715(a)(2).

59. On November 9, 2018, an EMD inspector conducted an inspection at 10th **Street/Capitol Mall (State Capitol Building #001) Sacramento**, and cited the violation: Failure to comply with overfill prevention equipment requirements. In November 2019, the Annual Monitoring Certification inspection was due, however, no test was performed that

month.

60. On January 21, 2020, an EMD inspector conducted an inspection at 10th Street/Capitol Mall, Sacramento, and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons. 23 CCR sections 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), and 2712(b)(1)(F); Health and Safety Code section 25284.2.

61. On October 28, 2020, an EMD inspector conducted an inspection at 10th Street/Capitol Mall, Sacramento and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to conduct the secondary containment testing for the UST System at least every 36 months. 23 CCR sections 2637(a-d).

C. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons. 23 CCR sections 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), and 2712(b)(1)(F); and Health and Safety Code section 25284.2.

D. Failure to maintain accurate CUPA UST Operating Permit Facility Information and/or Tank Information. 23 CCR 2711; and Health and Safety Code section 25286(a).

62. On November 10, 2021, an EMD inspector conducted an inspection at 10th Street/Capitol Mall, and cited the following violations:

A. Failure to have a properly qualified service technician test teak detection equipment as required every 12 months (vacuum, pressure, hydrostatic system. sensors, line-leak detectors, automatic tank gauge, etc.). 23 CCR 16 2638(a) & (b). 2641(j). and 2715(f).

B. Failure to submit a copy of the secondary containment test results on the Secondary Containment Testing Report Form to the CUPA within 30 days after the test. 23 CCR 2637(e), (f).

C. Failure to maintain copies of the Designated Underground Storage Tank Operator Visual Inspection Report and all attachments for 36 months. 23 CCR 2716(f).

63. On November 14, 2022, an EMD inspector conducted a Hazardous Materials and Hazardous Waste Inspection at Defendant's facility at 10th Street and Capitol Mall, Sacramento (the State Capitol Building #001) and cited the following violations:

A. Failure to annually review and electronically certify that the business plan is complete and accurate on or before the annual due date. Health and Safety Code sections 25508(a)(1) and 25508.2.

B. Failure to complete and electronically submit hazardous material inventory forms information for all reportable hazardous materials on site at or above reportable quantities. Health and Safety Code sections 25505(a)(1), 25506, and 25508(a)(1).

C. Failure to complete and electronically submit a site map with all required content. Health and Safety Code sections 25505(a)(2) and 25508(a)(1).

D. Failure to test and maintain as necessary all facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment to assure its proper operation in time of emergency. 22 CCR 66262.34(d)(2). The fire extinguishers observed at the time of inspection were last serviced in May of 2019.

64. Defendant owns and operates a UST facility at **744 P Street, Sacramento** (Department of General Services Office Building 8 & 9).

65. On November 9, 2018, an EMD inspector conducted an inspection at 744 P St., Sacramento, and cited the violations:

A. Failure to maintain accurate CUPA UST Operating Permit Facility Information and/or Tank Information. 23 CCR 2711; and Health and Safety Code section 25286(a).

B. Failure to maintain secondary containment. 23 CCR 2662, Health and Safety Code section 25291(a).

C. Failure to comply with overfill prevention equipment requirements. 23 CCR 2635(c)(1), 2635(d), 2637.2(a), 2637.2(b), 2637.2(c), 2665, and 2712(b)(1)(G).

D. Failure to install a line leak detector. 23 CCR 2636(f)(2), 2636(f)(5)(B), 2643(c)(1), 2666(f); Health and Safety Code section 25291(f).

66. On January 21, 2020, an EMD inspector conducted an inspection at 744 P Street, Sacramento. The facility scheduled the Annual Monitoring Certification four months past the due date. The following violations were cited:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons. 23 CCR sections 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), and 2712(b)(1)(F); Health and Safety Code section 25284.2.

67. On November 12, 2020, an EMD inspector cited the following violations at 744 P Street, Sacramento:

A. Failure to upload documents into the California Environmental Reporting System Failure to maintain Designated Operator monthly inspections.

68. Defendant owns and operates a UST facility at **901 P Street, Sacramento,** California (known as the Paul Bonderson Building).

69. On November 27, 2018, an EMD inspector conducted an inspection at 901 P Street, Sacramento, and cited the following violations:

A. Failure to maintain accurate CUPA UST Operating Permit Facility Information and/or Tank Information. 23 CCR 2711; Health and Safety Code section 25286(a).

B. Failure to maintain secondary containment. 23 CCR 2662, Health and Safety Code section 25291(a)

C. Failure to comply with overfill prevention equipment requirements. 23 CCR 2635(c)(1), 2635(d), 2637.2(a), 2637.2(b), 2637.2(c), 2665, and 2712(b)(1)(G).

D. Failure to install a line leak detector. 23 CCR 2636(f)(2), 2636(f)(5)(B), 2643(c)(1), and 2666(f); and Health and Safety Code section 25291(f).

E. The facility failed to certify return to compliance within 30 days.

F. In November 2019, the Annual Monitoring Certification inspection was due, however, no test was performed that month.

70. On January 21, 2020, an Annual Monitoring Certification test was performed at Defendant's facility at 901 P Street, Sacramento. The test results indicated a failed spill bucket for the diesel tank maintained on site. An EMD inspector conducted an inspection and cited the following violations:

A. Failure to perform the annual monitoring certification inspection every 12 months. 23 CCR sections 2638(a) & (b), 2641(j), and 2715(f).

B. Failed to perform the overfill prevention equipment testing per 23 CCR sections 2635(c)(1), 2635(d), 2637.2(a), 2637.2(b), 2637.2(c), 2665, and 2712(b)(1)(G).

C. Failure to maintain accurate CUPA UST Operating Permit Facility Information and/or Tank Information. 23 CCR 2711and Health and Safety Code section 25286(a).

71. On November 13, 2020, an EMD inspector conducted an inspection at Defendant's facility at 901 P Street, Sacramento, and cited the following violations:

A. Failure to conduct the secondary containment testing for the UST System at least every 36 months. 23 CCR 2637(a-d).

B. Failure to maintain accurate CUPA UST Operating Permit Facility Information and/or Tank Information. 23 CCR 2711 and Health and Safety Code section 25286(a).

72. Defendant owns and operates a UST facility at **4949 Broadway, Sacramento**, California (known as the Department of Justice Building).

73. On June 30, 2022, an EMD inspector conducted an inspection at Defendant's facility at 4949 Broadway, Sacramento, and cited the following violations:

A. Failure to have an approved UST Monitoring Plan. 23 CCR 2632(d)(1), 2634(d). 2641(h).

B. Failure of the functional line leak detector (LLD) for emergency generator tank systems to monitor with the capability of detecting a release of 3.0 gallons per hour leak at 10 pounds per square inch within an hour and restrict or shut off the flow of product through the piping or triggers a visual and audible alarm. 23 CCR 2636(f), 2666(c), 2666(f).

C. Failure to construct, operate, and maintain primary containment as product-tight. Health and Safety Code sections 25290.1(c)(1), 25290.2(c)(1), 25291(a)(1); 23 CCR 2631(a).

D. Failure to have current UST Monitoring Plan readily accessible at the facility. 23 CCR 2712(i).

E. The transition sump testing was 12 months past due.

F. The Diesel Line Leak Detector testing was overdue.

74. On June 20, 2023, an EMD inspector conducted an inspection at Defendant's facility at 4949 Broadway, Sacramento, and cited the following violations:

A. Failure to construct, operate, and maintain primary containment as product-tight. This is a repeat violation. The primary diesel pipe was not being

maintained as product tight. The diesel submersible turbine pump sump had approximately 2 gallons of diesel observed in it during the time of inspection. There was also a small amount of diesel fuel in the transition sump and there was a 5 gallon plastic bucket catching diesel fuel from the aboveground pipe in the generator room. 23 CCR 2631(a); HSC 6.7 25290.1(c)(1), 25290.2(c)(1), and 25291(a)(1).

B. Failure of the double-walled pressurized piping to be continuously monitored with a system that activates an audible and visual alarm or stops flow at the dispenser when a leak is detected. The diesel submersible turbine pump sump sensor failed to activate an audible and visual alarm when tested to ensure continuous monitoring of the tank system. All monitoring equipment shall be maintained to activate an audible and visual alarm or stop the flow of product at the dispenser when it detects a leak. There have been multiple documented alarms going back to April 10, 2023, indicating that this sensor has been out of compliance for an extended period of time. 23 CCR 16 2666(b)(2), 2636(f)(1).

C. Failure of the functional line leak detector monitoring pressurized piping to detect a release of 3.0 gallons per hour leak at 10 pounds per square inch within an hour and/or to restrict or shut off the flow of product through the piping when a leak is detected. The diesel line leak detector failed to detect a leak during testing. 23 CCR 2636(f)(2).

75. Defendant owns and operates a facility at **1020 N Street and 1020 O Street,** Sacramento, California (known as the Legislative Office Building).

76. In 2023, an EMD inspector conducted an inspection at Defendant's facility at 1020 N Street and 1020 O Street, Sacramento, and found that hazardous materials (oxygen and acetylene) in amounts requiring the filing of a Hazardous Materials Business Plan (HMMP) had been moved to this site. No HMMP had been filed or permit obtained. The following violations were observed:

A. Failure to obtain and maintain an active permit for hazardous materials storage in violation of Sacramento County Code section 6.96.030.

B. Failure to complete and electronically submit hazardous material inventory forms information for all reportable hazardous materials on site at or above reportable quantities in violation of Health and Safety Code sections 25505(a)(1), 25506, and 25508(a)(1).

C. Failure to complete and electronically submit a site map with all required content in violation of Health and Safety Code sections 25505(a)(2) and 25508(a)(1).

77. In 2023, an EMD inspector conducted an inspection at Defendant's facility at **1021 "O" St (Capital Annex Swing Space)**, Sacramento and found an aboveground petroleum storage (diesel tank) with a storage capacity above 1,320 gallons The following violations were observed:

A. The diesel tank did not have a permit in violation of Sacramento County Code section 6.96.030.

B. No Spill, Prevention, Control and Countermeasure Plan had been submitted for the diesel tank in violation of Health and Safety Code section 2570.4.5.

C. Defendant had not filed a Hazardous Materials Business Plan (HMMP) in violation of Health and Safety Code section 25508. The HMMP was not submitted until September 1, 2023.

78. In 2023, an EMD inspector conducted an inspection at Defendant's facility at **1020 "O" St (the California Museum)** and observed gas cylinders above 220 cubic feet of compressed gas. Defendant had not filed a HMMP for this facility in violation of Health and Safety Code section 25508.

Violations in Alameda County

79. At all relevant times alleged herein, Defendant owned and operated UST's in Alameda County, including at the Elihu Harris State Building at 1515 Clay Street in the City of Oakland.

80. Defendant owns and operates a UST that stores diesel for the purpose of fueling emergency generators and fire pumps at **1515 Clay Street in Oakland**, California. The fiberglass UST was installed in 1997 and has the capacity to hold 3,000 gallons of fuel. Defendant also manages hazardous waste and hazardous materials at the Clay Street building, in its basement and elsewhere at the site.

81. The Alameda County Department of Environmental Health ("ACDEH") is the local agency authorized by CalEPA to inspect operations at 1515 Clay Street for violation of laws relating to UST systems, hazardous waste management, and hazardous materials management. ACDEH took over these inspection responsibilities from the City of Oakland's Fire Department (OFD) in 2015.

Historical violations at 1515 Clay Street in Oakland, Alameda County

82. On August 7, 2014, an OFD inspector conducted an annual UST compliance inspection at 1515 Clay Street in Oakland, during which OFD found and documented the following violations:

- Failure to equip double-walled piping with continuous monitoring system in violation of California Code Regs., title 23, section 2636(f);
- Failure to maintain daily visual observations logs in violation of California Code Regs., title 23, section 2712(b); and
- Failure to maintain Designated UST Operator monthly reports in violation of California Code Regs., title 23, section 2715.

83. On July 29, 2015, an ACDEH inspector conducted an annual UST compliance inspection and inspections for compliance with hazardous waste and hazardous materials laws at 1515 Clay Street at which ACDEH found and documented the following violations:

- Failure to maintain accurate UST permit application information in violation of California Code Regs., title 23, section 2711;
- Failure to submit UST compliance statement and/or Designated Operator current certification in violation of California Code Regs., title 23, section 2715
- Failure to maintain an approved monitoring plan in violation of California Code Regs., title 23, sections 2632, 2634, 2641, and 2712;
- Failure to maintain secondary containment in violation of California Code Regs., title 23, sections 2662 and Health and Safety Code sections 25290.1, .2, 25291, and 25292;
- Failure to comply with UST Designated Operator requirements, including training requirements, in violation of California Code Regs., title 23, section 2715;

- Failure to maintain hazardous waste manifest records for three years in violation of California Code Regs., title 22, 66262.40(a); and
- Failure to provide training regarding the release and threatened release of hazardous materials in violation of Health and Safety Code, section 25505.

84. On May 5, 2016, ACDEH issued Defendant a "NOTICE OF VIOLATION" based on its failure to correct the above violations.

85. On April 26, 2017, the California State Water Board (CSWB) conducted a UST inspection at 1515 Clay Street and found and documented the following violations in a "NOTICE OF VIOLATION" the CSWB issued to Defendant on May 11, 2017:

- Failure to maintain an operating permit in violation of Health and Safety Code section 25284(a);
- Failure to maintain an approved monitoring plan in violation of California Code Regs., title 23, section 2711;
- Failure to maintain a complete and accurate site map in violation of California Code Regs., title 23, section 2711;
- Failure to provide training in violation of California Code Regs., title 23, section 2715;
- Failure to conduct Designated Operator inspections in violation of California Code Regs., title 23, section 2715;
- Failure to maintain UST monitoring, which had been in alarm since August 4, 2016, without follow-up action, in violation of Health and Safety Code section 25284(a);
- Failure to maintain monitoring equipment such that the equipment is capable of detecting a leak at the earliest possible opportunity, in violation of California Code

Regs., title 23, section 2630 (d));

- Failure to perform an Annual Monitoring Certification (AMC) inspection and annual spill containment testing in violation of Health and Safety Code section 25284.2;
- Failure to maintain monitoring and testing records in violation of Health and Safety Code section 25293 and California Code Regs., title 23, section 2715; and
- Failure to tag monitoring equipment to reflect it was certified, repaired and/or replaced, in violation of California Code Regs., title 23, section 2638.

86. On August 3, 2017, ACDEH issued Defendant a "NOTICE OF SIGNIFICANT VIOLATION / RED TAG" to Defendant based on outstanding violations from the above-described inspection performed on July 29, 2015.

87. On April 27, 2018, an ACDEH inspector conducted an annual UST compliance inspection at 1515 Clay Street, at which ACDEH found and documented the following violations:

- Failure to maintain accurate UST permit application information in violation of Health and Safety Code section 25286(a) and California Code Regs., title 23, section 2711;
- Failure to designate a UST Designated Operator (DO), after changing its DO, in violation of California Code Regs., title 23, section 2715;
- Failure to conduct DO inspections as required by California Code Regs., title 23, section 2715; and
- Failure to maintain an approved monitoring plan in violation of California Code Regs., title 23, section.

Violations at issue herein in Alameda County

88. On June 5, 2018, ACDEH issued a "NOTICE OF VIOLATION" to Defendant based on Defendant's failure to annually submit a Hazardous Materials Business Plan (HMBP) for materials Defendant stored at 1515 Clay in violation of Health and Safety Code section 25508. Defendant did not thereafter timely submit an HMBP, and ACDEH issued Defendant a "FINAL NOTICE OF VIOLATION" for the continued failure on December 22, 2021.

89. On October 6, 2020, ACDEH issued Defendant a "NOTICE TO COMPLY," based on the following violation relating to 1515 Clay Street:

A. Defendant's failure to perform an annual monitoring certification (AMC) inspection in violation of Health and Safety Code section 25284. At that time, Defendant's AMC inspection had been overdue since the previous March, i.e., over 6 months overdue. Defendant failed to perform an AMC inspection in the year 2020.

90. On June 30, 2021, an ACDEH inspector conducted an annual UST compliance inspection at 1515 Clay Street at which ACDEH found and documented the following violations:

A. Owned and/or operated a UST without a permit as required by California Health and Safety Code, section 25284;

B. Failed to include accurate information in a permit application to operate an underground storage tank (UST) as required by California Health and Safety Code, section 25286 and California Code of Regulations, title 23, section 2711;

C. Failure to maintain an approved monitoring plan in violation of California Code Regs., title 23, sections 2632, 2634, 2641, and 2712;

D. Failure to designate a UST Designated Operator (DO) after changing its DO in violation of California Code Regs., title 23, section 2715

E. Failure to conduct secondary containment testing and to submit a secondary containment test report to the local agency as required by California Code of Regulations, title 23, section 2637.

F. Failure to perform an Annual Monitoring Certification (AMC) inspection and annual spill containment testing in violation of Health and Safety Code section 25284.2;

G. Failure to assure that Designated UST Operator visual inspections were conducted every thirty (30) days and that such monthly inspections were recorded in an inspection report that was maintained on site in accordance with section 2715 as required by California Code of Regulations, title 23, sections 2715 and 2716;

H. Failure to provide training in violation of California Code Regs., title 23, section 2715;

I. Failure to maintain records in sufficient detail to enable the local agency to determine if UST systems are in compliance as required by California Health and Safety Code section 25293 and California Code of Regulations, title 23, section 2712;

J. Failure to maintain a copy of the UST permit at the facility in violation of California Code of Regulations, title 23, section 2712;

K. Failure to maintain monitoring plan readily accessible on-site in violation of California Code of Regulations, title 23, section 2712;

L. Failure to comply with permit requirements in violation of California Code of Regulations, title 23, section 2712; and

M. Failure to provide proof of correction of outstanding violations within 30 days of

notice of violation as required by California Health and Safety Code section 25293 and California Code of Regulations, title 23, section 2712(f).

91. On July 19, 2021, ACDEH conducted a hazardous waste inspection at 1515 Clay and documented the following violations:

A. Failure to maintain copies of uniform hazardous waste manifests and consolidated manifests for three (3) years, as required by Health and Safety Code section 25160.2(b)(3) and California Code of Regulations, Title 22, section 66262.40;

B. Failure to properly mark, label, and store containers and tanks of hazardous waste as required under California Code of Regulations, title 22, section 66262.34;

C. Failure to close hazardous waste containers when not in use in violation of California Code of Regulations, title 223, section 66262.34(d)(2); and

D. Failure to post emergency information in violation of California Code of Regulations, title 23, section 2712.

92. ACDEH conducted a hazardous materials inspection on July 19, 2021 at 1515 Clay Street and documented the following violations:

A. Failure to submit a Hazardous Materials Business Plan (HMBP) in violation of Health and Safety Code section 25505; and

B. Failure to provide initial and annual training in violation of California Code of Regulations, title 19, section 2659.

93. On May 17, 2022, an ACDEH inspector conducted an annual UST compliance inspection at 1515 Clay Street at which ACDEH found and documented the following violations:

A. Failure to include accurate information in a permit application to operate a UST

as required by California Health and Safety Code, section 25286 and California Code of Regulations, title 23, section 2711;

B. Failure to maintain an approved monitoring plan in violation of California Code Regs., title 23, sections 2632, 2634, 2641, and 2712;

C. Failure to designate a UST Designated Operator (DO) after changing its DO in violation of California Code Regs., title 23, section 2715;

D. Failure to conduct secondary containment testing and to submit a secondary containment test report to the local agency as required by California Code of Regulations, title 23, section 2637;

E. Failure to timely conduct overfill prevention equipment testing in violation of California Code Regs., title 23, sections 2635, 2637, 2665, and 2712;

F. Failure to assure that Designated UST Operator visual inspections were conducted every thirty days and that such monthly inspections were recorded in an inspection report that was maintained on site in accordance with section 2715 as required by California Code of Regulations, title 23, section 2715 and 2716;

G. Failure to provide training in violation of California Code Regs., title 23, section 2715;

H. Failure to maintain records in sufficient detail to enable the local agency to determine if UST systems are in compliance as required by California Health and Safety Code section 25293 and California Code of Regulations, title 23, section 2712;

I. Failure to maintain monitoring plan readily accessible on-site in violation of California Code of Regulations, title 23, section 2712;

J. Failure to comply with permit requirements in violation of California Code of

Regulations, title 23, section 2712; and

K. Failure to provide proof of correction of outstanding violations within 30 days of notice of violation as required by California Health and Safety Code section 25293 and California Code of Regulations, title 23, section 2712(f).

94. On November 29, 2022, ACDEH issued Defendant a "NOTICE OF VIOLATION," based on uncorrected violations (many of them repeat violations) found and documented in inspections at 1515 Clay Street on October 6, 2020, June 30, 2021, July 19, 2021, and May 17, 2022.

FIRST CAUSE OF ACTION
Violations of Hazardous Waste Control Laws for
Hazardous Waste Handling, Training and Storage Requirements
(Health & Saf. Code, §§ 25100, et seq., and 25189, subd. (b);
Cal. Code Regs., tit. 22, § 66260.1 et seq.)

95. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the paragraphs above.

96. As detailed above, within five years of the applicable statute of limitations (Code of Civil Procedure section 338.1), Defendant violated the hazardous waste requirements of Chapter 6.5 of Division 20 of the Health and Safety Code section 25100 et seq., and its implementing regulations at Title 22 of the California Code of Regulations section 66260.1 et seq., including but not limited to:

97. Failure to maintain copies of uniform hazardous waste manifests and consolidated manifests for three (3) years, in violation of Health and Safety Code section 25160.2(b)(3) and 22 CCR 66262.40;

98. Failure to properly mark, label, and store containers and tanks of hazardous waste in violation of 22 CCR 66262.34;

99. Failure to close hazardous waste containers in violation of 22 CCR 66262.34(d)(2);

100. Failure to post emergency information in violation of 23 CCR 2712;

101. Failure to test and maintain all facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment to assure proper operation in an emergency in violation of 22 CCR 66262.34(d)(2).

102. The alleged actions of Defendant, as set out herein, are in violation of the law and public policy of the State of California. Defendant continues to generate hazardous waste, and thus retains the means to continue to violate the laws set forth above.

SECOND CAUSE OF ACTION
Violations of Hazardous Materials Release Response Plans and Inventory Laws
(Health & Saf. Code, §§ 25505 – 25508.2;
Cal. Code Regs., tit. 19, § 2651. 2654,2658 and 2659)

103. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the paragraphs above.

104. As detailed above, within five years of the applicable statute of limitations (Code of Civil Procedure section 338.1), Defendant failed to maintain the required hazardous materials response plans and inventories required for its facilities as required by Chapter 6.95, Division 20, of the Health and Safety Code, including but not limited to:

105. Failure to submit a Hazardous Materials Business Plan in violation of Health and Safety Code section 25505;

106. Failure to provide initial and annual training in violation of 19 CCR 2659;

107. Failure to annually review and electronically certify that its business plan is complete and accurate on or before the annual due date in violation of Health and Safety Code sections 25508(a)(1) and 25508.2;

108. Failure to complete and electronically submit hazardous material inventory forms information for all reportable hazardous materials on site at or above reportable quantities in violation of Health and Safety Code sections 25505(a)(1), 25506, and 25508(a)(1); and

109. Failure to complete and electronically submit a site map with all required content in violation of Health and Safety Code sections 25505(a)(2) and 25508(a)(1).

110. The alleged actions of Defendant, as set out herein, are in violation of the law and public policy of the State of California. Defendant continues to manage hazardous materials, and thus retains the means to continue to violate the laws set forth above.

THIRD CAUSE OF ACTION
Violation of Underground Storage of Hazardous Substances Law by a UST Operator
(Health and Safety Code, Division 20, Chapter 6.7, Section 25281 *et seq.*)

111. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the paragraphs above.

112. At all times mentioned herein, Defendant was the operator of UST's at the facilities set forth above, with the exception of the USTs at the State Capitol, and as such, are strictly liable for civil penalties and injunctive relief for violation of any requirement in Health and Safety Code Chapter 6.7 and of any regulation issued pursuant thereto. (Health and Safety Code sections 25299.)

113. Within five years of the applicable statute of limitations (Code of Civil Procedure section 338.1), with respective to the above-described UST's, Defendant committed the following violations of Health and Safety Code Chapter 6.7, and its implementing regulations set forth in title 23 of the California Code of Regulations, including but not limited to:

114. Failure to perform the annual monitoring certification inspection every 12 months in violation of 23 CCR 2638(a) and (b), 2641(j), and 2715(f).

115. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons in violation of 23 CCR 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), 2712(b)(1)(F), and Health and Safety Code section 25284.2.

116. Failure to maintain or submit adequate documentation in violation of 23 CCR 2637(e), 2637(f), 2715(a) and 2716(a)-(e).

117. Failure to have a properly qualified service technician test leak detection equipment every 12 months in violation of 23 CCR 2638(a) and (b), 2641(j), and 2715 (f).

118. Failure to submit a copy of the Monitoring System Certification form and any required attachments to the CUPA within 30 days of the equipment testing date in violation of 23 CCR 2638(d).

119. Failure to submit a copy of the spill containment test results on the Spill Container Testing Report Form to the CUPA within 30 days after the test in violation of 23 CCR 2637.1(d), and 2637.1(e).

120. Failure to submit a copy of the overfill prevention equipment inspection results on the Overfill Prevention Equipment Inspection Report Form to the CUPA within 30 days after the inspection in violation of 23 CCR 2637.2(d), 2637.2(e), 2665(a), and 2665(b).

121. Failure to have a current UST Monitoring Plan readily accessible at the facility in violation of 23 CCR 2712(i).

122. Failure to submit a Underground Storage Tank Statement of Understanding and Compliance Form in violation of 23 CCR 2715(a)(1)(A) and 2715(a)(2).

123. Failure to comply with overfill prevention equipment requirements in violation of 23 CCR 2635(c)(1), 2635(d), 2637.2(a), 2637.2(b), 2637.2(c), 2665, and 2712(b)(1)(G).

124. Failure to complete Designated Operator monthly inspection reports in violation of 23 CCR 2716(a) through (e).

125. Failure to submit required Designated Operator forms to CERS (online reporting) within 30 days of a change in the owner or operator which previously submitted the Form, in violation of 23 CCR 2715(a)(1)(B) and 2715(a)(3).

126. Failure to submit a copy of secondary containment test results on the Secondary Containment Testing report Form to the CUPA within 30 days after the test as required by 23 CCR 2637(e), and 2637(f).

127. Failure to submit a Designated Underground Storage Tank Operator (DO) Identification Form within 30 days of installing a UST system in violation of 23 CCR 2715(a)(1)(B) and 2715(a)(3).

128. Failure to conduct secondary containment testing for a UST System at least every 36 months. in violation of 23 CCR sections 2637(a-d).

129. Failure to install or maintain a liquid-tight spill container that has a minimum capacity of five gallons in violation of 23 CCR sections 2635(b), 2637.1(a), (b), (c), 2665(a) & (b), and 2712(b)(1)(F); and Health and Safety Code section 25284.2.

130. Failure to maintain accurate CUPA UST Operating Permit Facility Information and/or Tank Information in violation of 23 CCR 2711; and Health and Safety Code section 25286(a).

131. Failure to maintain copies of Designated Underground Storage Tank Operator Visual Inspection Reports and all attachments for 36 months in violation of 23 CCR 2716(f).

132. Failure to maintain secondary containment in violation of 23 CCR 2662, Health and Safety Code section 25291(a).

133. Failure to install a line leak detector in violation of 23 CCR 2636(f)(2), 2636(f)(5)(B), 2643(c)(1), 2666(f); Health and Safety Code section 25291(f).

134. Failure to have an approved UST Monitoring Plan in violation of 23 CCR 2632(d)(1), 2634(d), and 2641(h).

135. Failure to construct, operate, and maintain primary containment as product-tight in violation of 23 CCR 2631(a); Health and Safety Code sections 25290.1(c)(1), 25290.2(c)(1), and 25291(a)(1).

136. Failure of the double-walled pressurized piping to be continuously monitored with a system that activates an audible and visual alarm or stops flow at the dispenser when a leak is detected in violation of 23 CCR 2666(b)(2), and 2636(f)(1).

137. The alleged actions of Defendant, as set out herein, are in violation of the law and public policy of the State of California. Defendant continues to own and operate underground storage tanks, and thus retains the means to continue to violate the laws set forth above.

FOURTH CAUSE OF ACTION
Violations of Underground Storage of Hazardous Substances Law by a UST Owner
(Health and Safety Code, Div. 20, Chapter 6.7, section 25281 et seq.)

138. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the paragraphs above.

139. At all times mentioned herein, Defendant was the owner of underground storage tanks (UST's) at the facilities discussed above, and as such, Defendant is strictly liable for civil penalties and injunctive relief for violation of any requirement in Health and Safety Code Chapter 6.7 and of any regulation issued pursuant thereto. Health and Safety Code sections 25299.

140. Within five years of the applicable statute of limitations (Code of Civil Procedure section 338.1), Defendant committed each violation of Health and Safety Code Chapter 6.7 and each regulation set forth in the Third Cause of action herein.

141. The alleged actions of Defendant, as set out herein, are in violation of the law and public policy of the State of California. Defendant continues to own and operate underground storage tanks, and thus retains the means to continue to violate the laws set

forth above.

FIFTH CAUSE OF ACTION
Violations of Aboveground Storage of Petroleum Law
(Health and Safety Code, Div. 20, Chapter 6.67, sections 25270.2 et seq.)

142. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the paragraphs above.

143. At all times mentioned herein, Defendant was the owner and operator of aboveground petroleum storage containers at the facilities set forth above, and as such, Defendant is strictly liable for civil penalties and injunctive relief for violation of any requirement in Health and Safety Code Chapter 6.67 and of any regulation issued pursuant thereto.

144. Within five years of the applicable statute of limitations (Code of Civil Procedure section 338.1), Defendant committed the violations of Health and Safety Code Chapter 6.67, and its implementing regulations, including but not limited to:

145. Owning and operating aboveground petroleum storage containers of 1,320 gallons or more and failing to prepare and implement a Spill Prevention Control and Countermeasure Plan for the same as required by Health and Safety Code sections 25270.2 et seq.

146. The alleged actions of Defendant, as set out herein, are in violation of the law and public policy of the State of California. Defendant continues to own and operate aboveground petroleum storage and thus retains the means to continue to violate the laws set forth above.

PRAYER

WHEREFORE, Plaintiff prays for the following relief:

1. For a permanent injunction requiring Defendant and its agents, employees, representatives, successors in interest, and all persons acting under, in concert with or for them to comply with the requirements of California Health and Safety Code, Division 20,

Chapters 6.5, 6.7 and 6.95 and all implementing regulations.

2. For civil penalties against Defendant, pursuant to Health and Safety Code section 25189, subdivision (b), in an amount according to proof.

3. For civil penalties against Defendant, pursuant to section Health and Safety Code 25189.2, subdivision (b), in an amount according to proof.

4. For civil penalties against Defendant, pursuant to Health and Safety Code section 25515 in an amount according to proof.

5. For civil penalties against Defendant pursuant to Health and Safety Code section 25299, subdivision (a), in an amount according to proof.

6. For civil penalties against Defendant pursuant to Health and Safety Code section 25299, subdivision (b), in an amount according to proof.

7. For civil penalties against Defendant pursuant to Health and Safety Code section 25270.12, in an amount according to proof.

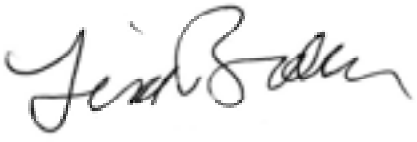
8. For investigative, enforcement, and litigation costs incurred by both Plaintiff and the investigating agencies.

9. For such other and further relief to the Plaintiff and investigating agencies as the nature of the case may require and that the court deems proper to fully dissipate the effects of the unlawful and unfair acts complained of herein.

Dated: March 13, 2024

Respectfully submitted,

THIEN HO
DISTRICT ATTORNEY



By: Lisa Brown
Deputy District Attorney

Exhibit A

Complaint Sacramento Court Case Number 34-2014- 00172360 (Prior Case)

JAN SCULLY, DISTRICT ATTORNEY
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Attorneys for the Plaintiffs
PEOPLE OF THE STATE OF CALIFORNIA

FILED
Superior Court Of California,
Sacramento
12/02/2014
tsmith
By _____, Deputy
Case Number:
34-2014-00172360

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

DEPARTMENT OF GENERAL SERVICES, STATE OF CALIFORNIA

Defendants.

NO.

COMPLAINT FOR CIVIL PENALTIES; PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

(Health & Safety Code, Sections 25299; California Code of Regulations Title 23, Sections 2637(a), 2637(e), 2715(f)(3), and 2715(f).)

The People of the State of California, by and through Jan Scully, District Attorney for the County of Sacramento, hereby allege as follows:

PRELIMINARY ALLEGATIONS

1. The People, by and through Jan Scully, as the District Attorney of the County of Sacramento, bring this action in the public interest for the purpose of protecting the public health, safety and welfare.

2. Pursuant to California Health & Safety Code, Sections 25299, and 25299.01, the Office of the District Attorney for the County of Sacramento may bring an action for

civil penalties and injunctive relief for violations relative to the maintenance of underground storage tanks and/or a violation of Chapter 6.75 of the Health & Safety Code, or any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or executed thereunder, respectively.

DEFENDANTS

3. Plaintiff is informed and believes and thereupon alleges that defendant is a corporation, doing business as, DEPARTMENT OF GENERAL SERVICES, STATE OF CALIFORNIA.

The word "defendant" or "defendants" as used in this Complaint shall refer to each and every name listed above.

The true names and capacities of DOES ONE through TEN, are presently unknown to plaintiff, and plaintiff will seek leave of court to amend this complaint to allege such names and capacities as soon as they are known.

JURISDICTION AND VENUE

4. The activities and conditions constituting violations of local and state law, including the storage and disposal of hazardous wastes, alleged herein, have been carried out in the County of Sacramento, State of California.

5. Venue is proper in this county pursuant to Article 6, Section 10 of the California Constitution and Sections 393 and 395.5 of the California Code of Civil Procedure.

ENFORCEMENT AUTHORITY

6. Health & Safety Code, Section 25299, provides for civil liability for any violations of Chapter 6.75 of the Health & Safety Code concerning , or any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or executed thereunder.

7. Health & Safety Code, Section 25299.02 authorizes the District Attorney's Office bring a civil action in the name of the people of the State of California.

GENERAL ALLEGATIONS

8. At all times relevant hereto Defendant operated and maintained underground storage tanks at facilities located at 714 and 744 P Street, within the city and county of Sacramento.

9. On or about and between 2008 and 2012, the Environmental Management Department of the County of Sacramento found the Defendant to have violated several laws and regulations relating to underground storage tanks that it maintained in the County of Sacramento. These prior violations were handled administratively and resulted in fines;

10. On or about November 15, 2012, Defendant did not leak test its underground storage tanks as required by law;

11. On or about November 15, 2012, Defendant did not have records of testing of underground storage tanks as required by law;

12. On or about December 21, 2012, Defendant did not have employee training records as required by law;

13. On or about December 21, 2012, Defendant did not complete annual employee training as required by law;

14. On or about December 21, 2012, Defendant did not have records of current secondary containment testing available at the time of inspection as required by law.

15. On or about December 21, 2012, Defendant had not completed secondary containment testing as required by law;

16. On or about February 2, 2013, Defendant failed to submit secondary containment test results within the time required by law.

FIRST CAUSE OF ACTION

(Violation of California Code of Regulations Title 23, Section 2637(a).)

16. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 15 above.

17. Defendant did not test its underground storage tanks within the time specified by law.

SECOND CAUSE OF ACTION

(Violation of California Code of Regulations Title 23, Section 2637(e).)

18. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 17 above.

19. Defendant did not submit records of testing its underground storage tanks to the Department of Environmental Management within thirty (30) days of completing its testing.

THIRD CAUSE OF ACTION

(Violation of California Code of Regulations Title 23, Section 2715(f)(3).)

20. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 19 above.

21. Defendant did not maintain a list of facility employees who had been trained as required by law.

FOURTH CAUSE OF ACTION

(Violation of California Code of Regulations Title 23, Section 2715(f).)

22. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 21 above.

23. Defendant did not train facility employees in the proper operation and maintenance of the underground storage tank system as required by law.

FIFTH CAUSE OF ACTION

(Violation of California Code of Regulations Title 23, Section 2637(e).)

24. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 23 above.

25. Defendant did not submit secondary containment test results within the time period required by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief as to each Defendant:

1. An order finding Defendant civilly liable pursuant to California Health & Safety Code, Sections 25299 as well as applicable sections of the California Code of Regulations as set forth herein.

2. For a preliminary and permanent injunction enjoining Defendants, and each of them, and their agents, lessees, tenants, employees, representatives, successors in interest, and all persons acting under, in concert with or for them from conducting or permitting others to violate any laws, regulations, and/or ordinances concerning the maintenance, testing, and operation of underground storage tanks, as well as, the maintenance of records concerning the same including records of employee training with respect to the maintenance, operation, and testing of underground storage tanks.

3. Such other and further relief as the Court deems just and proper.

DATED: 12-2-2014

Respectfully submitted,

JAN SCULLY

DISTRICT ATTORNEY

/LW. Higgins

KEVIN HIGGINS
Deputy District Attorney

Exhibit B

Final Judgment Pursuant to Stipulation
Sacramento Court Case Number 34-2018-00231930 (Prior Case)

JAN SCULLY, District Attorney
KEVIN W. HIGGINS, Deputy District Attorney (166576)
Office of the District Attorney, County of Sacramento
Consumer & Environmental Protection Division
906 G Street, Suite 700
Sacramento, CA 95814
Telephone: (916) 874-8773

FILED
ENDORSED
2014 DEC 11 AM 8:48
SUPERIOR COURTS
DEPT. #54

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

DEPARTMENT OF GENERAL SERVICES, STATE OF CALIFORNIA,

Defendant.

NO. 34-2014-00172360

STIPULATED FINAL JUDGMENT

Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, having filed its Complaint herein, through their attorney, JAN SCULLY, District Attorney of Sacramento County, by KEVIN HIGGINS, Deputy District Attorney; and Defendant DEPARTMENT OF GENERAL SERVICES, STATE OF CALIFORNIA, through its attorney BRYAN KIMURA, having stipulated that this Stipulated Final Judgment ("Final Judgment") may be signed without the taking of proof, without trial or adjudication of any fact or law herein, without this stipulated Final Judgment constituting evidence or an admission by Defendant, with Defendant having waived its right of appeal and having approved this Final Judgment as to form and content, and good cause appearing therefore:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. This court has jurisdiction over the subject matter hereof and the parties hereto.

2. The Sacramento County District Attorney's Office has authority under California law to maintain this action for the protection of the People of the State of California, pursuant to California, Health & Safety Code, Section 25299.

3. This Judgment is entered upon the Complaint, and against the DEPARTMENT OF GENERAL SERVICES, STATE OF CALIFORNIA.

4. Defendant stipulates that it operated, managed, and supervised the underground storage tanks located at 714 and 744 P Street, Sacramento, California, during the years of 2012 through the present time. Furthermore, that during this period of time, inspectors from the Sacramento County Environmental Management Department, inspected its property for compliance with California environmental laws and regulations.

5. Pursuant to Health & Safety Code, Section 25299.01, the DEPARTMENT OF GENERAL SERVICES, STATE OF CALIFORNIA, is permanently enjoined from engaging in any acts or practices which constitute or will constitute a violation of Chapter 6.75 of the Health & Safety Code, of the State of California, or any other laws or regulations concerning underground storage tanks.

6. Defendant shall provide access to inspectors from the County of Sacramento, Environmental Management Department during normal business hours to ensure ongoing compliance with the injunction.

7. Defendant shall have the on-site manager and/or supervisor for the facilities at 714 and 744 P Street review this judgment and accompanying complaint and provide proof of the same via signed declaration within five (5) business days from this judgment becoming final.

8. Defendant shall pay costs and civil penalties in the amount of TWO HUNDERED AND SIXTY-FIVE THOUSAND ($265,000.00) in settlement of this matter

to be apportioned as set forth below:

A. TWO HUNDRED AND SIXTY-ONE THOUSAND DOLLARS ($261,000.00) payable to the Environmental Management Department for the County of Sacramento pursuant to Health & Safety Code, Section 25299(h)(1).

B. FOUR THOUSAND DOLLARS ($4,000.00) to the Office of the District Attorney for the cost of work by its employees relative to the subject incident.

9. Payment of costs by the DEPARTMENT OF GENERAL SERVICES, STATE OF CALIFORNIA to the Environmental Management Department for the County of Sacramento shall be paid in full within ninety (90) days from the date that the court signs this Stipulated Final Judgment.

10. Except as otherwise expressly provided herein, each party shall bear its own attorney's fees and costs.

11. The language used for the obligations set forth in this Final Judgment are solely for the purposes of settlement and compromise and are in no way intended to be an alteration of California law in any other action.

12. The failure of the People to enforce any provision of this Final Judgment shall neither be deemed a waiver of such provision nor shall it in any way affect the validity of this Final Judgment. The failure of the People to enforce any provision shall not preclude it from later enforcing the same or other provisions of this Final Judgment.

13. Jurisdiction is retained for the purpose of enabling any party to this Final Judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate.

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14. All submissions and notices required by this Final Judgment shall be sent to:

For Plaintiff:

Kevin Higgins
Sacramento County District Attorney's Office
Consumer and Environmental Protection Division
Supervising Deputy District Attorney
906 G Street, Suite 700
Sacramento, CA 95814

For Defendant:

Bryan H. Kimura, Attorney III
Office of Legal Services
Department of General Services
P.O. Box 989052, MS-102
West Sacramento, California 95798-9052

15. Any Party may change the individual or the address for purpose of notices to that Party by a written notice specifying a new individual or address, but no such change is effective until the written notice is actually received by the Party sought to be charged with its contents. All notices or other communications required or permitted under this Final Judgment entered in this action that are addressed as provided in this Paragraph are effective upon delivery if delivered personally or by overnight mail or, if delivered by certified mail, are effective five (5) calendar days following deposit with the United States Postal Service. However, nothing in this Final Judgment shall be interpreted or applied to relieve Defendant of its existing obligations to provide copies of documentation to a state or local agency or Certified Unified Program Agencies as required by statute, regulation, or requirement.

16. This Final Judgment and the terms and conditions set forth therein are not intended to be and shall not be construed by anyone as evidence of or an admission of any liability by Defendant. No findings or conclusions have been made by any trier-of-fact regarding the allegations at issue. Defendant does not admit that it had violated any statute, standard, order, or regulation in connection with any of the matters alleged

in the Complaint.

17. This Final Judgment has been reviewed by the Court, and based upon the representations of the parties, the Court finds that it has been entered in good faith and is, in all respects, fair, just, and equitable to protect the public and the individuals who may have been affected by the issues related as more fully described in the Complaint.

FOR THE DEFENDANT:

DATED: By: _____
DIANNE HILL, Branch Chief
Building and Property
Management Branch
Real Estate Services Division
Department of General Services

APPROVED AS TO FORM AND CONTENT:

DATED: 11/14/14 By: _____
BRYAN KIMURA
Office of Legal Services
Department Of General Services

FOR THE PEOPLE: JAN SCULLY, District Attorney

DATED: By: _____
KEVIN HIGGINS
Deputy District Attorney

IT IS SO ORDERED:

DATED: DEC 11 2014 _____
JUDGE OF THE SUPERIOR COURT
RAYMOND M. CADEI